

Coast Guard, DHS

§ 20.301

preside over each administrative proceeding under this part.

§ 20.202 Powers.

The ALJ shall have all powers necessary to the conduct of fair, fast, and impartial hearings, including the powers to—

- (a) Administer oaths and affirmations;
- (b) Issue subpoenas authorized by law;
- (c) Rule on motions;
- (d) Order discovery as provided for in this part;
- (e) Hold hearings or settlement conferences;
- (f) Regulate the course of hearings;
- (g) Call and question witnesses;
- (h) Issue decisions;
- (i) Exclude any person from a hearing or conference for disrespect, or disorderly or rebellious conduct; and
- (j) Institute policy authorized by the Chief ALJ.

§ 20.203 Unavailability.

(a) If an ALJ cannot perform the duties described in § 20.202 or otherwise becomes unavailable, the Chief ALJ shall designate a successor.

(b) If a hearing has commenced and the assigned ALJ cannot proceed with it, a successor ALJ may. The successor ALJ may, at the request of a party, recall any witness whose testimony is material and disputed, and who is available to testify again without undue burden. The successor ALJ may, within his or her discretion, recall any other witness.

§ 20.204 Withdrawal or disqualification.

(a) An ALJ may disqualify herself or himself at any time.

(b) Until the filing of the ALJ's decision, either party may move that the ALJ disqualify herself or himself for personal bias or other valid cause. The party shall file with the ALJ, promptly upon discovery of the facts or other reasons allegedly constituting cause, an affidavit setting forth in detail the reasons.

(1) The ALJ shall rule upon the motion, stating the grounds for the ruling. If the ALJ concludes that the motion is timely and meritorious, she or

he shall disqualify herself or himself and withdraw from the proceeding. If the ALJ does not disqualify herself or himself and withdraw from the proceeding, the ALJ shall carry on with the proceeding, or, if a hearing has concluded, issue a decision.

(2) If an ALJ denies a motion to disqualify herself or himself, the moving party may, according to the procedures in subpart J of this part, appeal to the Commandant once the hearing has concluded. When that party does appeal, the ALJ shall forward the motion, the affidavit, and supporting evidence to the Commandant along with the ruling.

§ 20.205 Ex parte communications.

Ex parte communications are governed by subsection 557(d) of the Administrative Procedure Act (5 U.S.C. 557(d)).

§ 20.206 Separation of functions.

(a) No ALJ may be responsible to, or supervised or directed by, an officer, employee, or agent who investigates for or represents the Coast Guard.

(b) No officer, employee, or agent of the Coast Guard who investigates for or represents the Coast Guard in connection with any administrative proceeding may, in that proceeding or one factually related, participate or advise in the decision of the ALJ or of the Commandant in an appeal, except as a witness or counsel in the proceeding or the appeal.

Subpart C—Pleadings and Motions

§ 20.301 Representation.

(a) A party may appear—

- (1) Without counsel;
- (2) With an attorney; or
- (3) With other duly authorized representative.

(b) Any attorney, or any other duly authorized representative, shall file a notice of appearance. The notice must indicate—

- (1) The name of the case, including docket number if assigned;
- (2) The person on whose behalf the appearance is made; and